

"The Bill of Rights in the Balance:
The Deployment of Federal Troops Against the American People"

Democratic Roundtable led by Representative Raskin and
featuring Representatives Blumenauer and Bonamici

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Summary of Remarks

Congressman Raskin and Members of the Roundtable:

In my remarks concerning the new unnamed and unauthorized federal force that appeared in Portland, Oregon, in July 2020, I will make three points:

(1) that the apparent *origins* of this new American secret police harmonize in troubling ways with the history of authoritarian secret police forces and paramilitaries;

(2) that the existence of a federal secret police force controverts the spirit of the *rule of law* as it is understood in the United States;

(3) that the actions taken by the new federal force in Poland, when seen in historical and contemporary context, create grounds for concern about the November *election*.

1. *Origins*. Authoritarian regimes do not usually establish themselves by a sudden revolution, but rather by exploiting loopholes in the law, or by overinterpreting the law to their own advantage. This would well describes the origins of the new federal secret police. It arose within a government department that is ill-defined; the head of that department has not been

confirmed by the senate; the justification for the action is a vague and indeed unbounded declaration of crisis having to do with monuments and statues.

It is also troubling that this ideological justification, as provided by the president in an executive order, has to do with the preservation of monuments. Attention to physical markers of mythical greatness or innocence at the expense of actual human beings and their rights is a sign of right-wing authoritarianism and fascism. Similarly, it is troubling that the president, the attorney general, and the acting head of Homeland Security refer to conspiracy theories or broad fictions about "anarchists," "terrorists," or "the Left" to justify the deployment of the new secret police. The use of such labels is characteristic of right-wing authoritarianism or fascism.

History teaches us that men who are trained in lawless zones, such as concentration camps or detention centers, can be ordered into other zones where they will behave lawlessly. The classical example is the SS, which began as a force that guarded concentration camps. It has also been the case, for example in the Spanish civil war, that troops who are first assigned to a frontier zone are then brought to the interior, where they treat citizens as they have been trained to treat foreigners. Usually they are told that the people they are assaulting are not actually members of the nation. For these reasons, the apparent origin of the personnel of the new secret police, detention centers and border zones, is of great concern.

2. *Rule of law.* A secret police force is characteristic of authoritarian and totalitarian regimes. It cannot be reconciled with the rule of law as it is generally understood in this country. Most obviously, the practices of a secret police force, as we have seen in Portland, violate laws that prohibit kidnapping and assault. Characteristically, a regime will define whatever the secret police does as legal by making an argument from emergency; this too we have seen from officials within Homeland Security. The idea that actions taken by secret police are always legal makes the notion of law meaningless.

The actions of a secret police force also threaten the rule of law by their unaccountability and unpredictability. If citizens are not able to anticipate whether a man approaching them represents the law or not, they cannot make appropriate choices as to how they should behave. They are placed in an impossible position, where they can be charged with disobeying an officer when they have no real way of knowing that the person standing before them is in fact representing the law. A secret police force opens the way to imitation, whereby entirely private individuals can simply choose (for example) to rent vans, wear camouflage, and kidnap Americans or commit other crimes. A secret police force gives cover to this sort of action, sometimes deliberately. In right-wing takeovers and coups, a secret police force can openly or secretly cooperate with paramilitaries that are not part of the government.

Finally, the nature of state terror is its unpredictability. A sudden abduction from the street might be framed as an exception, an error, or a response to an emergency. But that kind of action, precisely because it seems to have no pattern, is what creates a sense of terror in the population. That is in fact what terror means.

3. *Election.* The use of the new and unauthorized federal secret police force in Portland has to be seen in the context of the epidemiological and economic disaster unfolding in the United States. The president has unleashed the new secret police at a time when his own actions have contributed to mass death as well as economic collapse in the United States. He seems to understand that he has little chance of maintaining power through democratic means and has never expressed a commitment to democracy or the rule of law.

It seems likely, given the general pattern of authoritarian behavior, that the deployment in Portland was designed not to hinder but to escalate violence, thereby aiding the president in his propaganda campaign against American cities. The idea that the cities are dark and decadent and the heartland is clean and white is not only an old fascist trope; it is also a way to transform the concerns of Black Americans and their allies, which among other things concern the right to vote, into a fake emergency for the president to exploit.

The president has recently expressed his preference that the November elections be postponed. Although it is comforting to say that he lacks the power directly to do that, he has now signaled that he would like others to find ways to do disrupt the elections for him.

Homeland Security and its secret police have shown that they are willing to do things which offend basic sensibilities about the rule of law. The possibility must be considered that this force will be used to intimidate voters in cities or otherwise interfere with elections. This this would be consistent with what we know of authoritarian takeovers: elections are held, but in chaotic circumstances and with widespread intimidation.

Thank you very much for the opportunity to deliver these comments.